

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Glenn Brown	Team: Squad #11	CCRB Case #: 201411288	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/14/2014 2:30 AM	Location of Incident: 2520 Park Avenue; 40th Precinct Stationhouse	Precinct: 40	18 Mo. SOL 3/14/2016	EO SOL 3/14/2016	
Date/Time CV Reported Thu, 11/06/2014 9:53 AM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 11/06/2014 9:53 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Malik Mccloud	30082	954114	PBBX
2. POM Ruben Guerrero	12555	953935	PBBX
3. Officers			PBBX
4. SGT Kelvin Glover	871	928384	PBBX
5. POM Fernando Rodriguez	27943	954282	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Ruben Guerrero	Force: PO Ruben Guerrero struck § 87(2)(b) against a vehicle.	
B.POM Fernando Rodriguez	Force: PO Fernando Rodriguez struck § 87(2)(b) against a vehicle.	
C.POM Fernando Rodriguez	Discourtesy: PO Fernando Rodriguez spoke discourteously to § 87(2)(b) and § 87(2)(b)	
D. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b) and an individual.	
E.SGT Kelvin Glover	Discourtesy: Sgt. Kelvin Glover spoke discourteously to § 87(2)(b) and § 87(2)(b)	
F.POM Fernando Rodriguez	Force: PO Fernando Rodriguez struck § 87(2)(b) against a vehicle.	
G.POM Malik Mccloud	Abuse: PO Malik McCloud strip-searched § 87(2)(b)	
H.SGT Kelvin Glover	Off. Language: Sgt. Kelvin Glover made remarks to § 87(2)(b) based upon race.	

Case Summary

On September 14, 2014, at approximately 2:30 am § 87(2)(b) stated that the incident began when he was checking on his 10:30pm reservation), § 87(2)(b) was arrested by Sgt. Kelvin Glover and PO Ruben Guerrero of Patrol Borough Bronx while trying to enter the strip club Sin City at 2520 Park Avenue in the Bronx. PO Guerrero and PO Fernando Rodriguez, also of Patrol Borough Bronx, brought § 87(2)(b) over to a marked van and allegedly slammed him up against its side (**Allegation A and B**). § 87(2)(b) asked what crime he had committed and PO Rodriguez allegedly said, “Didn’t he tell you to get the fuck out of his face?” (**Allegation C**). § 87(2)(b) friends § 87(2)(b) and an individual known as Rick approached the van, at which time two unidentified officers allegedly told them to “Shut the fuck up,” and that what was happening was “none of your fucking business,” (**Allegation D**). Also, around this time, Sgt. Glover allegedly told § 87(2)(b) and § 87(2)(b) “Get the fuck back or I’ll lock you up, too,” (**Allegation E**). § 87(2)(b) was then placed into handcuffs and brought over to the van. PO Rodriguez allegedly said, “Shut the fuck up,” (**Allegation C**) and allegedly slammed § 87(2)(b) against the door jamb of the van three times (**Allegation B**). While § 87(2)(b) was being placed into the van, two officers allegedly told § 87(2)(b) “Shut the fuck up,” (**Allegation D**). § 87(2)(b) and § 87(2)(b) were transported back to the 40th Precinct stationhouse, where § 87(2)(b) was taken into a bathroom and allegedly strip-searched (**Allegation F**). § 87(2)(b) was issued two summonses, one for § 87(2)(b) and § 87(2)(b), and § 87(2)(b) was issued a § 87(2)(b) summons. As § 87(2)(b) was leaving the stationhouse, Sgt. Glover allegedly told him, “You’re from fucking Brooklyn? Stay the fuck out of the Bronx,” “Don’t bring your white ass back to the Bronx,” and “You can fucking sue me, you wouldn’t be the first,” (**Allegation E and G**). § 87(2)(b) recorded a portion of the incident on his cell phone (see Board Review 01).

Mediation, Notice of Claim, and Criminal Histories

This complaint was ineligible for mediation. On June 4, 2015, a Notice of Claim inquiry was made to the Comptroller’s Office and this request is still pending (see Board Review 02). § 87(2)(b) and § 87(2)(b) do not have any previous criminal convictions. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) or involving § 87(2)(b) or § 87(2)(b) (see Board Review 05, 07, and 08).
- This is the second CCRB complaint filed by § 87(2)(b) § 87(2)(b)
- PO McCloud has been a member of service for two years and there are no substantiated allegations against him. This is his first complaint.
- PO Guerrero has been a member of service for two years and there are no substantiated allegations against him.
- Sgt. Glover has been a member of service for 13 years and there are no substantiated allegations against him.
- PO Rodriguez has been a member of service for two years and there are no substantiated allegations against him.

Findings and Recommendations

Explanation of Subject Officer Identification

Based on the video footage and officer testimony, there were only four officers on the scene: PO Guerrero (a Hispanic male, 6'2" tall, 260 pounds), PO Rodriguez (a Hispanic male, 6'1" tall, 225 pounds), PO McCloud (a black male, 6'2" tall, 195 pounds, § 87(2)(b) old), and Sgt. Glover (a black male, 6'4" tall, 299 pounds, § 87(2)(b) old).

§ 87(2)(b) alleged that two Hispanic males slammed him up against the side of the van.
§ 87(2)(g)

§ 87(2)(b) alleged that the Hispanic male whose name was not Guerrero (an identification he made from PO Guerrero's nameplate) said, "Didn't he tell you to get the fuck out of his face?" Later on, while § 87(2)(b) was being placed into the van, a Hispanic officer told § 87(2)(b) "Shut the fuck up." The video recording of the incident revealed that PO Guerrero was not interacting with § 87(2)(b) at this time. § 87(2)(g)

§ 87(2)(b) alleged that when he, § 87(2)(b) and § 87(2)(b) approached the van, two officers, one who was Hispanic and one who he could not describe, said, "Shut the fuck up," and that the situation was "none of your fucking business." However, in § 87(2)(b)'s original complaint, he stated that PO McCloud (it was unclear how he obtained this name) cursed at him. § 87(2)(b) alleged that two officers he did not recall told him, "Shut the fuck up," while they were placing § 87(2)(b) in the van. § 87(2)(g)

§ 87(2)(b) alleged that a black male in his mid-40s to early 50s who "seemed in charge" said to him, § 87(2)(b) and § 87(2)(b) "Get the fuck back or I'll lock you up, too." At the stationhouse, § 87(2)(b) alleged that a black male in his 40s who seemed to be of a higher rank said, "You're from fucking Brooklyn? Stay the fuck out of the Bronx," "Don't bring your white ass to the Bronx," and "You can fucking sue me, you wouldn't be the first." § 87(2)(g)

§ 87(2)(b) alleged that a Hispanic male slammed his head against the doorjamb of the van three times. The video recording of this portion of the incident showed that PO Guerrero was not interacting with § 87(2)(b) at this time, § 87(2)(g)

PO McCloud acknowledged bringing § 87(2)(b) into a stationhouse bathroom at the time of an alleged strip-search. § 87(2)(g)

Allegations not Pled

Stop: Officer responded to the Sin City club because of an unruly crowd outside. The officers tried to get people to stand in a line, and § 87(2)(b) refused their orders to do so, and spit on the sidewalk, and at that point they decided to bring him back to the station house to issue summonses for disorderly conduct and spitting, because the crowd was hostile. When they attempted to place him § 87(2)(b) in handcuffs, § 87(2)(b) began to pull the officers away from § 87(2)(b) and he was then placed under arrest.

Refusal to Provide Name and Shield: § 87(2)(b) stated that after § 87(2)(b) started video recording the incident he asked for the officers' names and shield numbers. In the video recording, § 87(2)(b) said, "I want all y'all's badge numbers," and PO Guerrero, who had been interacting with him, immediately complied and provided his information. § 87(2)(g)

- **Allegation A) Force: PO Ruben Guerrero struck § 87(2)(b) against a vehicle.**
- **Allegation B) Force: PO Fernando Rodriguez struck § 87(2)(b) and § 87(2)(b) against a vehicle.**

§ 87(2)(b) stated that after he was placed into handcuffs, § 87(2)(b) began filming the incident and PO Guerrero and PO Rodriguez allegedly slammed him one time into the side of the van. While § 87(2)(b) was being placed inside the van, he could hear but not see § 87(2)(b) slammed into the van. In his initial written complaint to the CCRB, § 87(2)(b) also stated that his chest was slammed against the concrete so that he could be handcuffed, and that after he was handcuffed, he was thrown into the van without elaborating further (see Board Review 09).

§ 87(2)(b) alleged that as he was being placed inside of the van, PO Rodriguez slammed his head against the van's doorjamb three times. § 87(2)(b) and § 87(2)(b) also said that officers slammed § 87(2)(b) into the side of the van, but they both alleged that it happened before he was placed into handcuffs. § 87(2)(b) also alleged that § 87(2)(b) hit his head on the van's door while he was being placed inside, but he said that it only happened once. § 87(2)(b) and § 87(2)(b) did not allege that § 87(2)(b)'s head hit the doorjamb. § 87(2)(b) and § 87(2)(b) stated in their phone statements that officers slammed § 87(2)(b) against the van and § 87(2)(b) stated that this happened after he was in handcuffs and after he started filming the incident. Employees at Sin City were uncooperative with attempts to gain the bouncers' contact information (see Board Review 10).

§ 87(2)(g)

§ 87(2)(b) only briefly appears on video, moments before he was placed inside the van and it is not clear if the alleged contact with the van happened before the video recording started or afterwards. The video recording of the incident captured the sound of a loud thud around the time that § 87(2)(b) was being placed into the van, but its origins are not clear.

All of the officers interviewed denied that § 87(2)(b)'s head ever hit the doorjamb of the van and none of them could explain the source of the thud in the video. PO Guerrero and PO Rodriguez both denied that § 87(2)(b) was ever pushed up against the exterior of the van, although they noted that § 87(2)(b) at first did not want to get into the van and pushed off of it with his foot. Sgt. Glover and PO McCloud also denied that § 87(2)(b) was forced up against the side of the van.

Patrol Guide Procedure 203-11 affords officers the minimum force necessary to make an arrest.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

• **Allegation C) Discourtesy: PO Fernando Rodriguez spoke discourteously to** § 87(2)(b)
and § 87(2)(b)

§ 87(2)(b) stated that after he was inside the van, he asked what crime he had committed and PO Rodriguez allegedly said, “Didn’t he tell you to get the fuck out of his face?” § 87(2)(b) stated that after he was brought over to the van and said that he could not get inside because § 87(2)(b) was in his way, PO Rodriguez allegedly said, “Shut the fuck up.” § 87(2)(b) and § 87(2)(b) did not corroborate each other’s allegation and none of the other civilians alleged these specific discourteous remarks. The video footage of the incident was focused on a different officer, at times on the other side of the van, around the times these statements were allegedly made, and did not capture either of these remarks. All of the officers interviewed denied making these remarks or hearing another officer make these remarks. § 87(2)(g)

• **Allegation D) Discourtesy: Officers spoke discourteously to** § 87(2)(b)
and an individual.

For the reasons described above, the investigation could not determine the identity of the officers who allegedly used said, “Shut the fuck up,” and that the arrest was “none of your fucking business.” § 87(2)(g)

• **Allegation E) Discourtesy: Sgt. Kelvin Glover spoke discourteously to** § 87(2)(b)
and § 87(2)(b)

§ 87(2)(b) alleged that when he, § 87(2)(b) and § 87(2)(b) approached Sgt. Glover to ask why § 87(2)(b) had been arrested, Sgt. Glover said, “Get the fuck back, or I’ll lock you up, too.” § 87(2)(b) further alleged that when he was being released from the 40th Precinct stationhouse, Sgt. Glover said to him, “You’re from fucking Brooklyn? Stay the fuck out of the Bronx,” and “You can fucking sue me. You wouldn’t be the first.”

None of the other witnesses corroborated the alleged discourtesy made by § 87(2)(b) and § 87(2)(b) did not corroborate § 87(2)(b) allegation from the stationhouse. Furthermore, in § 87(2)(b) initial written statement to the CCRB, § 87(2)(b) alleged that the stationhouse discourtesies were made in the van ride on the way to the stationhouse. § 87(2)(b) stated in his original complaint that before he was placed in the van, PO McCloud allegedly stated, “Ooh, you’re from Astoria, next time, stay the fuck out of my borough.” The video of the incident did not capture the discourtesy alleged by § 87(2)(b)

All of the officers interviewed denied making these remarks or hearing another officer make these remarks.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

• **Allegation F) Abuse of Authority: PO Malik McCloud strip-searched** § 87(2)(b)

§ 87(2)(b) alleged that after he was brought back to the stationhouse, PO McCloud brought him into a bathroom and strip-searched him. In § 87(2)(b)'s initial written complaint to the CCRB, he did not allege that he was strip-searched (see Board Review 11).

All of the officers interviewed denied that § 87(2)(b) was strip-searched and there is no police documentation of a strip-search occurring (see NYPD Documents 01, 02, and 03). PO McCloud acknowledged bringing § 87(2)(b) into the bathroom in order to perform a normal search and to remove his shoelaces and belt, but denied strip-searching § 87(2)(b) § 87(2)(g)

• **Allegation G) Discourtesy: Sgt. Kelvin Glover made remarks to** § 87(2)(b) **based upon race.**

§ 87(2)(b) alleged that while he and § 87(2)(b) were being released from the stationhouse, Sgt. Glover told § 87(2)(b) "Don't bring your white ass back to the Bronx." § 87(2)(b) did not make this allegation, though he said that another officer who was not in front of Sin City, told him to "keep his ass out of the Bronx." All of the officers interviewed denied making this remark or hearing another officer make this remark. § 87(2)(g)

Team: 1

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date